



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/644,195	08/22/2000	Thomas C. Wendt	066015.0103	1118

7590 11/28/2005
Kennerly Christopher W
Baker & Botts LLP
2001 Ross Ave Suite 800
Dallas, TX 75201

EXAMINER

NGUYEN, BRIAN D

ART UNIT PAPER NUMBER

2661

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/644,195

Applicant(s)

WENDT ET AL

Examiner

Brian D. Nguyen

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 24-46 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 24-46 and 48-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 3, and 21 are objected to because of the following informalities:

Claim 1, "a common format" in line 9 seems to refer back to "a common format" in line

4. If this is true, it is suggested to change "a common format" to --the common format--.

Claim 3, "a common network infrastructure" in line 3 seems to refer back to "a single network infrastructure" in line 5. If this is true, it is suggested to change "a common network infrastructure" to --the single network infrastructure --.

Claim 21, "a common format" in line 10 seems to refer back to "a common format" in line 4. If this is true, it is suggested to change "a common format" to --the common format--.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6-7, 9-12, 24-25, 27-31, 33, 35-38, and 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu et al (5,828,666) in view of Mittra (5,748,736).

Regarding claims 1 and 27, Focsaneanu discloses, "a system for providing integrated voice, video, and data content in an integrated service offering to one or more customer premises, comprising: a receiver operable to receive television programming (figure 2, element 46 where the CATV receives programming from the satellites of element 50); a video encoder

Art Unit: 2661

operable to convert the television programming into a common format for communication over a single network infrastructure using a common communication protocol (figure 2, element 42 where the CPE connection is described in col. 2, lines 3-10); a telecommunication switch coupled to a telephone network and operable to receive telephone communications from the telephone network (figure 7, local switch in element 216); a gateway operable to convert the telephone communications into the common format for communication over the single network infrastructure using the common communication protocol (figure 7, where element 208 is the functional equivalent of a gateway router by taking all the signals, including the telephone communications from PSTN 216, and converting them into the common format and sends the new signal to the customer premises); a router coupled to the video encoder, to the gateway, and to a data network that communicates data in the common format using the common communication protocol (figure 7, element 208 where the access module functions equivalently as a router), the router operable to: receive the converted television programming, the converted telephone communications, and the data from the data network, all in the common format (col. 7, lines 27-37 where element 208 receives all information from the respective networks as seen in figure D; and communicate the converted television programming, the converted telephone communications, and the data in the common format over the single network infrastructure using the common communication protocol to one or more customer premises to provide the integrated service offering (col. 7, lines 27-37)." Focsaneanu lacks what Mittra discloses, "assigning customer premises to multicast domains to support conditional access of the customer premises to selected television programming. (col. 2, lines 2-4 where Mittra teaches typical applications of multicast include ...video-on-demand and col. 2, lines 8-20 where Mittra teaches of using

Art Unit: 2661

encryption for conditional access such that only receivers with access key can decrypt the encrypted data)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the multicast domains for the purpose of controlling sub-groups within the larger group without affecting other sub-groups. The motivation for this being to allow different sub-groups to have different programming.

Regarding claims 2 and 28, Focsaneanu discloses "the method of claim 1, further comprising communicating data from a customer premises to the data network in the common format over the single network infrastructure using the common communication protocol (col. 1, lines 36-45 where it is known that by connecting these CPES to the data network, they will be in communication with it)."

Regarding claim 3, Focsaneanu discloses, "communicating telephone communications from a customer premises to the telephone network in the common format over the common network infrastructure using the common communication protocol (col. 1, lines 36-45 where it is known that by connecting the CPES to the telephone network, they will be in communication with it)."

Regarding claims 4, 29, and 30, Focsaneanu discloses, "wherein the programming source comprises one or more satellite or terrestrial antennas transmitting the content of one or more television channels (figure 2, elements communicating signal 52 clearly represent transmitting antennas and satellite communications from area 50, where each are part of the programming source as can be read in col. 2, lines 1-18)."

Regarding claims 7 and 33, Focsaneanu discloses, "wherein the data network comprises the Internet (col. 3, lines 6-11; figure 3, element 78 where element 78 is the same as data network 30 of figure 1)."

Regarding claims 9 and 35, Focsaneanu discloses "wherein the telephone network comprises the Public Switched Telephone Network (figure 1, element 20)."

Regarding claims 10 and 36, Focsaneanu discloses, "wherein the communications protocol comprises a packet-based communications protocol (col. 3, lines 6-11 where the protocol is TCP/IP which is packet-based)."

Regarding claims 11 and 37, Focsaneanu discloses "wherein the communications protocol comprises Internet Protocol (col. 3, lines 6-11)."

Regarding claims 25 and 49, Focsaneanu discloses, "conditioning access to the integrated television programming, data, and telephone communications based on a list of approved customer premises devices (col. 7, lines 4-9 where CPES are the customer premises and it is known that service providers maintain a list of customers for authentication so that they may be allowed to use the service provider's services)."

Regarding claims 6 and 31, Focsaneanu lacks what Mittra discloses, "the receiver is operable to receive television programming from one or more non-broadcast, switched linear video or audio sources (col. 4, lines 57-col. 5, Lines 1-14 where the non-broadcast information, i.e. the multicast information, of Mittra is used in conjunction with the CA TV network to send non-linear video, i.e. TV programming, where the non-linear video is as defined by applicant in the Remarks, page 10, paragraph 3, Lines 7-9)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the multicast, non-linear video for the purpose

Art Unit: 2661

of sending programming to a specific group of customers at the same time instead of individually. The motivation for multicasting video programming is to save time and resources by not having to send the information to each individual separately.

Regarding claims 12 and 38, Focsaneanu lacks what Mittra discloses, "communicating the television programming to the customer premises comprises IP multicasting the television programming to the multiple customer premises (col. 4, lines 57-67 and col. 5, lines 1-13)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the IP multicasting for the purpose of multicasting information to a group of customers at the same time instead of individually. The motivation for this being to save time and resources.

Regarding claims 24 and 48, Focsaneanu lacks what Mittra discloses, "encrypting the integrated television programming, data, and telephone communications for decryption by selected customer premises (col. 6, lines 62-67 and col. 7, lines 1-14 where the "group key" says that the server uses this to have secure connections or encrypted connections with the customer premises it serves)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the encryption for the purpose of have sending and receiving secure data. The motivation being theft of information prevention while the information is being transmitted.

4. Claims 5 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu in view of Mittra as applied to claims 1 and 27 above, and further in view of Brown (5,805,154).

Regarding claims 5 and 35, Focsaneanu lacks what Brown discloses, "the programming source comprises one or more digital or tape storage systems transmitting audio or video content (col. 3, lines 25-38). It would have been obvious to one with ordinary skill in the art at the time

Art Unit: 2661

of invention to include the digital or tape storage for the purpose of being able to transmit "non-live" or taped programming. The motivation being to allow users to watch programs after they have been recorded.

5. Claims 8 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu in view of Mittra as applied to claims 1 and 27 above, and further in view of Shaffer et al (5,761,294).

Regarding claims 8 and 34, Focsaneanu lacks what Shaffer discloses, "the data network comprises an intranet or extranet (col. 3, lines 22-27)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the intranet or extranet for the purpose of allowing customers access to the data contained within the intranet or extranet. The motivation for this being access through the data network and other networks via a common access point.

6. Claims 13, 14, 39, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu in view of Mittra as applied to claims 1 and 27 above, and further in view of Gerszberg et al (6,510,152).

Regarding claims 13 and 39, Focsaneanu lacks what Gerszberg discloses, "the single network infrastructure comprises an Ethernet network (col. 1, lines 27-30 where the Ethernet network is part of the network infrastructure)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the Ethernet network for the purpose of carrying data to and from the user. The motivation for this being to have a separate network for data from the other networks.

Regarding claims 14 and 40, Focsaneanu lacks what Gerszberg discloses, "providing content selected from the group consisting of...audio channels...(col. 8, lines 66-67 and col. 9, lines 1-5 where the radio channels are audio channel); and communicating the selected content...(col. 8, lines 66-67 and col. 9, lines 1-5)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the audio channels for the purpose of providing a variety of services to the user. The motivation being to provide a wider range of choices and bring in more customers.

7. Claims 15-16, 18, 26, 41-43, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu in view of Mitra as applied to claims 1 and 27 above, and further in view of Zigmond (6,215,483).

Regarding claims 15 and 41, Focsaneanu lacks what Zigmond discloses, "one or more servers operable to communicate a web page to the customer premises that includes content selected from the group consisting of television programming...(col. 6, lines 3-18 where a server is implied because the web content must be "asked for" and then sent to the requester from a server)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the web page for the purpose of having seamless integration of television programming and web content. The motivation for this being to allow users to view web content associated with a television broadcast.

Regarding claims 16 and 42, Focsaneanu lacks what Zigmond discloses, "one or more servers operable to communicate media markup and linking information in combination with the television programming at the customer premises (col. 6, lines 3-18 where a server is implied because the web content must be "asked for" and then sent to the requester from a server)." It

Art Unit: 2661

would have been obvious to one with ordinary skill in the art at the time of invention to include the markup and linking information for the purpose of having seamless integration of television programming and web content. The motivation for this being to allow users to view web content associated with a television broadcast.

Regarding claims 18 and 43, Focsaneanu lacks what Zigmond discloses, "the media markup and linking information comprises a link to content selected from the group consisting of television programming... (col. 6, lines 3-11 where the "Allowing Internet content to be associated with a television broadcast" is taken to mean that these links or content will take a user to the television broadcast it is associated with)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the markup and linking information for the purpose of having seamless integration of television programming and web content. The motivation for this being to allow users to view web content associated with a television broadcast.

Regarding claims 26 and 50, Focsaneanu lacks what Zigmond discloses, "conditioning access to the integrated television programming, data, and telephone communications based on the geographic location of a customer premises device (col. 3, lines 9-15 where stating that local affiliates may use the Internet to link TV shows that only those users in that local affiliates area would receive this information, it wouldn't make sense for someone outside the area to receive it, thus the access is conditional on geographic location)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the conditioning access based on geographic location for the purpose of allowing customers to view local programming. The motivation for this being more relevant programming for customers in a given area.

Art Unit: 2661

8. Claims 19-20 and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu in view of Mittra as applied to claims 1 and 27 above, and further in view of Zigmond and Brown.

Regarding claims 19 and 44, Focsaneanu lacks what Zigmond discloses, "one or more servers operable to communicate media markup and linking information to the customer premises in combination with content... (col. 6, lines 3-18 where it is known that markup and linking information must be stored on server and communicated with a server)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the markup and linking information for the purpose of having seamless integration of television programming and web content. The motivation for this being to allow users to view web content associated with a television broadcast. However, Focsaneanu and Zigmond lack what Brown discloses, "...selected from the group consisting of video-on-demand... (col. 3, lines 25-35)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the video-on-demand with the media markup and linking for the purpose of allowing a user to choose which video to watch. The motivation being ease of browsing and selecting videos.

Regarding claims 20 and 45, Focsaneanu and Brown lack what Zigmond further discloses, "the media markup and linking information comprises a link to content selected from the group consisting of television programming... (col. 6, lines 3-18)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the media markup and linking information comprising a link to television programming for the same reasons and motivation as in claims 19 and 44.

Art Unit: 2661

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu in view of Mittra as applied to claim 1 above, and further in view of Boys (6,314,094).

Regarding claim 17, Focsaneanu lacks what Boys discloses, "media markup and linking information (col. 2, lines 48-65 where, as is known in the art "hyperlinks" consist of "media markup and linking information"); and the method further comprises displaying the media markup and linking information in combination with radio programming at the customer premises (col. 2, lines 48-65 whereby allowing the user to select among "stored hyperlinks" the information must be displayed at the customer premises and consequently the user will choose what radio programming to listen to at the customer premises)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the "media markup and linking information" and "radio programming" for the purpose of allowing a user to choose what radio programming to listen to. The motivation in allowing a user to choose is greater flexibility in user choice.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu in view of Mittra as applied to claim 1 above, and further in view of Creamer (6,028,917) and Boys.

Regarding claim 22, Focsaneanu lacks what Creamer discloses, "the telephone communications comprise caller identification information (col. 10, lines 33-43); and the method further comprises displaying the caller identification and caller labeling information...at the customer premises (col. 10, lines 33-43 where "the computer linked to the web" is part of the customer premises)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the caller ID for the purpose of identifying who is calling before

Art Unit: 2661

answering the telephone. The motivation for knowing who is calling before answering is the ability of the user to choose whether or not to answer a call or not. However, Focsaneanu and Creamer lack what Boys discloses, u...the radio programming..." is displayed at the customer premises (col. 2, lines 48-65 whereby allowing the user to select among "stored hyperlinks" the radio programming will then be displayed at the customer premises as per the user's choice). It would have been obvious to one with ordinary skill in the art at the time of invention to include the "radio programming" being displayed at a customer premises for the purpose of allowing a user to choose what radio programming to listen to. The motivation in allowing a user to choose is greater flexibility in user choice.

11. Claims 21 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu in view of Mittra as applied to claims 1 and 27 above, and further in view of Ensor et al (5,550,900).

Regarding claims 21 and 46, Focsaneanu discloses, "a system for providing integrated voice, video, and data content in an integrated service offering to one or more customer premises, comprising: a receiver operable to receive television programming (figure 2, element 46 where the CATV receives programming from the satellites of element 50); a video encoder operable to convert the television programming into a common format for communication over a single network infrastructure using a common communication protocol (figure 2, element 42 where the CPE connection is described in col. 2, lines 3-10); a telecommunication switch coupled to a telephone network and operable to receive telephone communications from the telephone network (figure 7, local switch in element 216); a gateway operable to convert the telephone communications into the common format for communication over the single network

Art Unit: 2661

infrastructure using the common communication protocol (figure 7, where element 208 is the functional equivalent of a gateway router by taking all the signals, including the telephone communications from PSTN 216, and converting them into the common format and sends the new signal to the customer premises)); a router coupled to the video encoder, to the gateway, and to a data network that communicates data in the common format using the common communication protocol (figure 7, element 208 where the access module functions equivalently as a router), the router 'operable to: receive the converted television programming, the converted telephone communications, and the data from the data network, all in the common format (col. 7, lines 27-37 where element 208 receives all information from the respective networks as seen in figure 7); and communicate the converted television programming, the converted telephone communications, and the data in the common format over the single network infrastructure using the common communication protocol to one or more customer premises to provide the integrated service offering (col. 7, lines 27-37)." However, Focsaneanu lacks what Ensor discloses, "the telephone communications comprise caller identification information (col. 8, lines 3-224., and the system further comprises displaying the caller identification information including the caller labeling information which is inherently part of the caller identification information as noted in applicant's specification, page 23, lines 1-3) in combination with the television programming at the customer premises (col. 8, lines 3-22)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the caller identification for the purpose of displaying a caller's identification when a call is received. The motivation being immediate notification of a call and the caller's identity.

Response to Arguments

12. Applicant's arguments filed 8/15/05 have been fully considered but they are not persuasive. The applicant argued that the secure multicast groups of Mittra are not assigned "to support conditional access of the customer premises to content". The examiner disagrees because Mittra clearly discloses the conditional access of the customer premises by using the encryption technique. Note that page 26, lines 27-28 of the specification the applicant described "encryption" as a conditional access. For example, in col. 2, lines 2-4, Mittra discloses the multicast includes video-on-demand and col. 4, lines 61-62, Mittra discloses the network is a cable TV. Therefore, Mittra does disclose assign "to support conditional access of the customer premises to content that is selected from the group consisting of selected television programming, video-on-demand, pay-per-view video, near-video-on-demand, audio channels, audio-on-demand, and interactive gaming".

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

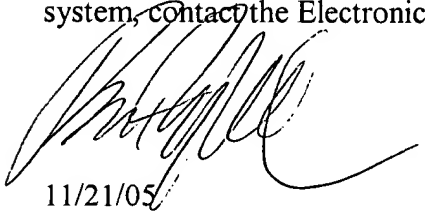
Art Unit: 2661

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D. Nguyen whose telephone number is (571) 272-3084. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



11/21/05

BRIAN NGUYEN
PRIMARY EXAMINER